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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,549	10/23/2003	Lucas R. Melton	4100	1132

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EXAMINER

LIN, SHEW FEN

ART UNIT	PAPER NUMBER
2166	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/692,549	Applicant(s) MELTON ET AL.
	Examiner Shew-Fen Lin	Art Unit 2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/23/03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 35-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☒ Claim(s) 35-39 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detail Action

- a. This action is responsive to communications: application filed on 10/23/2003.
- b. Claims 1-39 are pending in this Office Action. Claims 1, 16, 27, and 35 are independent claims. Claims 35-39 are withdrawn from consideration.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-34, drawn to query processing, classified in class 707, subclass 3.
- II. Claims 35-39, drawn to generating database or data structure, classified in class 707, subclass 102.

The inventions are distinct, each from the other because of the following reasons:

Inventions in Group I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention in Group I has separate utility such as a method to query database. See MPEP § 806.05(d). Invention in Group II has separate utility and a method to generate a data structure.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with applicant attorney Albert S. Michalik on June 9, 2006 a provisional election was made **without traverse** to prosecute the invention of Group I, claims 1-34. Affirmation of this election must be made by applicant in replying to this Office

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action. Claims 35-39 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims [1,2] and 17 of **Patent**

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Application No. 10/607,812. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are substantially similar in scope and they use the same limitations.

In Addition, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to omit the additional elements “presenting information about the taxonomy based on the relationship information in the response” of claims 17 to arrive at the claims 16 of instance application because the person would have realized that the remaining element would perform the same functions as before. “Omission of element and its function in combination is obvious expedient if the remaining elements perform same functions as before.” See In re Karlson (CCPA) 136 USPQ 184, decide Jan 16, 1963, Appl. No. 6857, U.S. Court of Customs and Patent Appeals.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The following table shows the claims in Instant Application that are rejected by corresponding claim(s) in 10/607,812.

Instant Application	Application 10/607,812
<p>1. In a computing environment, a method comprising: receiving a request for taxonomy-related information,</p> <p>the request including data corresponding to an origin node within a taxonomy and data indicating that an expanded result set is desired;</p> <p>providing at least one query for taxonomy-related data corresponding to at least one node that is genealogically related to the origin node;</p> <p>receiving taxonomy-related data based on the at</p>	<p>1. In a computing environment, a method comprising: receiving a request for taxonomy-related information,</p> <p>the request including identification data and relationship data; extracting data from the request; and</p> <p>querying a database based on the data extracted from the request to obtain taxonomy-related information about at least one node having a relationship that corresponds to the relationship data.</p>

Instant Application	Application 10/607,812
least one query; and returning a result set that includes the taxonomy-related data in response to the request.	2. The method of claim 1 further comprising, returning the taxonomy-related information in response to the request.
16. In a computing environment, a method comprising: constructing a request for taxonomy data, the request including data corresponding to an origin node within a taxonomy and data indicating that the request seeks data from one or more nodes that have a specified genealogical relationship with the origin node; communicating the request to a server; and receiving a response including data corresponding to at least one node that has the specified genealogical relationship with the origin node.	17. In a computing environment, a method comprising: constructing a request for taxonomy data, the request including identification data from which a taxonomy may be identified and at least one relationship qualifier; communicating the request to a server; receiving a response from the server including relationship information corresponding to the relationship qualifier; and presenting information about the taxonomy based on the relationship information in the response.

Specification

The disclosure is objected to because of the following informalities: In the page 12, line 17, it appears that “computer 20” should be changed to “computer 110”.

Appropriate correction is required.

Claim Objections

Claim 6 objected to under 37 CFR 1.75(c) as being in improper form because claim does not refer to a preceding claim (claim that depends on itself). See MPEP § 608.01(n). Accordingly, the claim 6 would be examined as “The method of claim 5,...”.

Claim Rejections – 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15 and 26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 15 and 26 are not limited to tangible embodiments. In view of Applicant's disclosure, specification page 10, lines 17-18, and page 10, lines 6-8, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g. disk, memory) and intangible embodiments (e.g. signal, carrier wave). As such, the claim is not limited to statutory subject matter and is therefore non-statutory. The claim will be favorably considered if “storage media” replaced the word “medium” in the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11, 14-22, 25-30, and 32-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Eaton (US Patent 6,570,567).

As to claim 1, Eaton discloses a method comprising: receiving a request for taxonomy-related information (select individual, abstract, lines 7-8), the request including data corresponding to an origin node (individual as origin node, column 1, lines 41-46) within a taxonomy and data indicating that an expanded result set is desired (parent-child relationship, column 1, lines 47-51, column 2, lines 1-2); providing at least one query for taxonomy-related data corresponding to at least one node that is genealogically related to the origin node (Figure 12, column 4, lines 3-5, column 7, lines 44-51, column 6, lines 45-49); receiving taxonomy-related data based on the at least one query (column 1, lines 34-36, column 6, lines 45-49); and returning a result set that includes the taxonomy-related data in response to the request (Figures 3, 9-10, column 6, lines 45-49, column 9, lines 50-53, lines 60-63).

As to claim 2, Eaton discloses the method of claim 1 further comprising, interpreting the request to determine that the request seeks data from at least one ancestor node of the origin node (Figure 3,item 307, Figure 9, column 1, lines 47-51).

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As to **claim 3**, Eaton discloses the method of claim 2 wherein an ancestor node corresponds to a direct parent node of the origin node (Figure 3,item 307, Figure 9, column 1, lines 47-51).

As to **claim 4**, Eaton discloses the method of claim 2 wherein the request includes a value corresponding to one or more generations of ancestor nodes from which data is being sought (Figure 9, column 2, lines 1-3).

As to **claim 5**, Eaton discloses the method of claim 1 further comprising, interpreting the request to determine that the request seeks data from at least one descendant node of the origin node (children, Figure 10, column 9, line 3).

As to **claim 6**, Eaton discloses the method of claim 5 wherein a descendant node corresponds to at least one immediate child node of the origin node (children, Figure 10, column 9, line 3).

As to **claim 7**, Eaton discloses the method of claim 5 wherein the request includes a value corresponding to one or more generations of descendant nodes from which data is being sought (Figure 9, column 2, lines 1-3).

As to **claim 8**, Eaton discloses the method of claim 1 further comprising, interpreting the request to determine that the request seeks data from at least one sibling node of the origin node (Figure 3, item 301, Figure 7, item 702, column 8, lines 61-65).

As to **claim 9**, Eaton discloses the method of claim 1 further comprising, interpreting the request to determine that the request seeks data from at least one ancestor node relative to the origin node, at least one descendant node relative to the origin node, and at least one sibling node relative to the origin node (Figures 9-11, column 1, lines 29-30, lines 34-36, column 2, lines 7-8).

As to **claim 10**, Eaton discloses the method of claim 9 wherein the request includes a value corresponding to one or more generations of ancestor nodes from which data is being sought (Figure 9, column 2, lines 1-3).

As to **claim 11**, Eaton discloses the method of claim 9 wherein the request includes a value corresponding to one or more generations of descendant nodes from which data is being sought (Figure 9, column 2, lines 1-3).

As to **claim 14**, Eaton discloses the method of claim 1 wherein the taxonomy-related information corresponds to a taxonomy having device information maintained therein (column 5, lines 2-3).

As to **claim 15**, Eaton discloses a computer-readable medium having computer-executable instructions for performing the method of claim 1 (see As to claim 1 for detail).

As to **claim 16**, Eaton discloses a method comprising: constructing a request for taxonomy data (column 1, lines 34-36), the request including data corresponding to an origin node within a taxonomy (individual as origin node, column 1, lines 41-46) and data indicating that the request seeks data from one or more nodes that have a specified genealogical relationship with the origin node (parent-child relationship, column 1, lines 47-51, column 2, lines 1-2); communicating the request to a server (column 5, lines 59-66, column 10, lines 45-46); and receiving a response including data corresponding to at least one node that has the specified genealogical relationship with the origin node (Figures 3, 9-10, column 6, lines 45-49, column 9, lines 50-53, lines 60-63).

As to **claim 17**, Eaton discloses the method of claim 16 wherein a specified genealogical relationship with the origin node comprises an ancestor relationship (Figure 3, item 307, Figure 9, column 1, lines 47-51).

As to **claim 18**, Eaton discloses the method of claim 17 further comprising, specifying in the request a number indicating a number of generations of ancestors for which corresponding data is sought (Figure 9, column 2, lines 1-3).

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As to **claim 19**, Eaton discloses the method of claim 16 wherein a specified genealogical relationship with the origin node comprises a descendant relationship (children, Figure 10, column 9, line 3).

As to **claim 20**, Eaton discloses the method of claim 19 further comprising, specifying in the request a number indicating a number of generations of descendants for which corresponding data is sought (Figure 9, column 2, lines 1-3).

As to **claim 21**, Eaton discloses the method of claim 16 wherein a specified genealogical relationship with the origin node comprises a sibling relationship (Figure 3, item 301, Figure 7, item 702, column 8, lines 61-65).

As to **claim 22**, Eaton discloses the method of claim 16 wherein a specified genealogical relationship with the origin node comprises a family relationship (Figures 9-11, column 1, lines 29-30, 1 34-36, column 2, lines 7-8).

As to **claim 25**, Eaton discloses the method of claim 16 wherein communicating the request to a server comprises sending a message seeking device information (column 5, lines 2-3).

As to **claim 26**, Eaton discloses a computer-readable medium having computer-executable instructions for performing the method of claim 16 (see As to claim 16 for detail).

As to **claim 27**, Eaton discloses a system comprising: a client (column 10, lines 45-46), the client including an application program that sends a request for taxonomy-related data (column 17, lines 44-51, column 10, lines 51-53), the request including data corresponding to an origin node in a taxonomy (individual as origin node, column 1, lines 41-46) and information indicating at least one genealogical relationship with the origin node (parent-child relationship, column 1, lines 47-51, column 2, lines 1-2); expansion logic that receives the request from the client and converts the request to seek taxonomy-related data from each node having a genealogical relationship with the origin node that matches a genealogical relationship indicated in the request (family tree is extended based on request, column 2, lines 1-2, column 6, lines 45-49) ; and a database that maintains taxonomy data (column 9, lines 25-26, lines 33-35), the database coupled to the expansion logic receive at least one taxonomy-related request corresponding to the client request, and in response to each request (column 9, lines 33-35), to locate data including at least some of the taxonomy-related data requested by the client (Figures 3, 9-10, column 6, lines 45-49, column 9, lines 50-53, lines 60-63).

As to **claim 28**, Eaton discloses the system of claim 27 wherein the information indicating at least one genealogical relationship specifies that taxonomy-related data is being sought from at least one ancestor node (Figure 3,item 307, Figure 9, column 1, lines 47-51).

As to **claim 29**, Eaton discloses the system of claim 27 wherein the information indicating at least one genealogical relationship specifies that taxonomy-related data is being sought from at least one descendant node (children, Figure 10, column 9, line 3).

As to claim 30, Eaton discloses the system of claim 27 wherein the information indicating at least one genealogical relationship specifies that taxonomy-related data is being sought from at least one sibling node (Figure 3, item 301, Figure 7, item 702, column 8, lines 61-65).

As to claim 32, Eaton discloses the system of claim 27 wherein the database is coupled to the expansion logic via a server (Figure 1, column 9, lines 25-26, lines 33-35).

As to claim 33, Eaton discloses the system of claim 27 wherein the database is accessed through a server (column 9, lines 25-26, lines 33-35), and wherein the expansion logic is incorporated in a middle tier between the client and the server (column 9, lines 19-24).

As to claim 34, Eaton discloses the system of claim 27 wherein the client provides the request to the server by calling an application programming interface, the application programming interface formatting the request as a message for communicating with the server (column 17, lines 44-51, column 10, lines 51-53).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12-13, 23-24, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton as applied to claims 1, 16, and 27 above, and further in view of Northrup et al. (US Publish 2003/0172127, hereinafter referred as Northrup).

As to claims 12 and 13, Eaton discloses the method of claim 1 as noted above but does not explicitly disclose wherein the request comprises an XML message, wherein returning a result set that includes the taxonomy-related data further comprises formatting the response as an XML message and wherein the taxonomy-related information corresponds to a taxonomy maintained at a UDDI server

Northrup discloses using UDDI server to provide information on service provider (paragraph [0021]) and the registering information could be genealogy information (paragraph

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[0563]). Furthermore, the registration process can also be implemented with XML techniques (paragraph [0264], lines 1-2, paragraph [226], lines 8, paragraph [0257], lines 10-12).

It would have been obvious to a person of ordinary skill in the art at the time of invention was made to modify Eaton's disclosure to include XML technique and UDDI server as taught by Northrup for the purpose of locating service, responsive to receiving the request (paragraph [0564], Northrup). The skilled artisan would have been motivated to improve the invention of Eaton per the above such that services/devices can be located.

As to **claims 23 and 24**, Eaton discloses the method of claim 16 as noted above but does not explicitly disclose wherein constructing a request for taxonomy data comprises constructing an XML message and wherein communicating the request to a server comprises sending the XML message to a UDDI server

Northrup discloses using UDDI server to provide information on service provider (paragraph [0021]) and the registering information could be genealogy information (paragraph [0563]). Furthermore, the registration process can also be implemented with XML techniques (paragraph [0264], lines 1-2, paragraph [226], lines 8).

It would have been obvious to a person of ordinary skill in the art at the time of invention was made to modify Eaton's disclosure to include XML technique and UDDI server as taught by Northrup for the purpose of locating service, responsive to receiving the request (paragraph [0564], Northrup). The skilled artisan would have been motivated to improve the invention of Eaton per the above such that services/devices can be located.

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As to claim 31, Eaton discloses the system of claim 27 wherein the taxonomy-related request from the client comprises an XML message

Northrup discloses the format of the content of the communication can be XML (paragraph [0205], lines 1-3, paragraph [0264], lines 1-2).

It would have been obvious to a person of ordinary skill in the art at the time of invention was made to modify Eaton's disclosure to use XML technology for data contents and information exchange as taught by Northrup because XML contains information to be self-describing.

Related Prior Arts

The following list of prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Talib, Iqbal et al., US 20010049677 A1, "Methods and systems for enabling efficient retrieval of documents from a document archive", (...for searching a document archive in such a manner that it is easy to search, drill down, drill-up and drill across documents in an archive using multiple, independent hierarchical category taxonomies of the document archive.).
- Feldman; Ronen et al., US 6442545 B1, "Term-level text with mining with taxonomies", (...providing a taxonomy of taxonomy terms, and mining the documents responsive to the taxonomy to discover a relationship between a set of one or more selected words and at least one of the taxonomy terms).

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- Goiffon; David A. et al., US 6453312 B1, "System and method for developing a selectably-expandable concept-based search", (...the user is allowed to control the manner and extent of the traversal, and is further allowed to de-select any located concepts and character strings for further use in query development.).
- Shadmon; Moshe et al., US 6804677 B2, "Encoding semi-structured data for efficient search and browsing", (...encoding XML tree data that includes the step of encoding the semi-structured data into strings of arbitrary length in a way that maintains non-structural and structural information about the XML data, and enables indexing the encoded XML data in a way facilitates efficient search and browsing).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shew-Fen Lin whose telephone number is 571-272-2672. The examiner can normally be reached on 8:30AM - 5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shew-Fen Lin
Patent Examiner

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June 14, 2006



MOHAMMAD ALI
PRIMARY EXAMINER